

## Director's Report CR Shoreline Master Program Amendment

### Introduction

Pursuant to Washington's Shoreline Management Act, the City of Seattle (City) manages a Shoreline Master Program (SMP), which regulates the use and development of the City's shorelines. The goal of the SMP is to achieve responsible shoreline use and development, environmental protection, and public access. Seattle's Shoreline District includes the Duwamish River, the Ship Canal, Lake Union, Lake Washington, Green Lake, Puget Sound, associated wetlands and floodplains, and all land within 200-ft of these water-bodies. The City is currently developing a comprehensive update to its SMP. This comprehensive SMP update is anticipated to be presented to Council in the Summer 2012 and should be approved by Ecology by 2013.

During the process of developing the comprehensive SMP update, it was identified that the City is required by State and Federal regulations to construct water quality facilities over the next several years, where the most practical and feasible site for those facilities is within the conservancy recreation (CR) shoreline environment. The types of facilities that will be constructed include underground wastewater and stormwater storage tanks and treatment facilities. Under the definitions in the current SMP, these facilities are categorized as "Utility Service Uses", and they are prohibited in the CR environment.

The City department implementing the projects, Seattle Public Utilities (SPU), has undergone a thorough public involvement process to site the facilities in the most optimal and publicly acceptable locations with consideration to environmental impacts. Some of the facilities require a shoreline location due to the gravitational nature of the wastewater and stormwater systems. Two sites under consideration are located in the CR environment: A parking lot at 49<sup>th</sup> Avenue South and South Genesee Street and within Seward Park at the tennis courts.

Consideration was given to including this small SMP update in the more comprehensive SMP update. Unfortunately, the regulatory requirements that have been imposed on the City for implementing its water quality projects require that the small SMP update proceed in advance of the comprehensive SMP update.

### Proposal

The proposed amendment to the Shoreline Master Program would accomplish the following:

- Allow utility service uses, such as facilities required to treat and store stormwater and/or combined sewage, as a shoreline conditional use in the CR environment, provided that they reasonably require a shoreline location to operate. All other utility service uses are prohibited.

### Analysis

Approving this small amendment to the SMP will allow the City to construct stormwater and wastewater water quality improvement projects in the CR shoreline environment. The purpose of the CR environment is defined in the Seattle Municipal Code 23.60.220:

The purpose of the CR shoreline environment is to protect areas for environmentally related purposes, such as public and private parks, aquaculture areas, residential piers, underwater recreational sites, fishing grounds, and migratory fish routes. While the natural environment is not maintained in a pure state, the activities to be carried on provided minimal adverse impact. The intent of the CR environment is to use the natural ecological system for production of food, for recreation, and to provide access by the public for recreational use of the shorelines. Maximum effort to preserve, enhance or restore the existing natural ecological, biological, or hydrological conditions shall be made in designing, developing, operating and maintaining recreational facilities.

The types of facilities that would be allowed in the CR environment by this amendment include underground storage tanks and underground water quality treatment vaults. In order for the facilities to be permitted in the CR environment, they would need to meet the Conditional Use criteria as defined by the Washington Administrative Code (WAC) 173-27-160:

- (a) That the proposed use is consistent with the policies of RCW 90.58.020 and the master program;
- (b) That the proposed use will not interfere with the normal public use of public shorelines;
- (c) That the proposed use of the site and design of the project is compatible with other authorized uses within the area and with uses planned for the area under the comprehensive plan and shoreline master program;
- (d) That the proposed use will cause no significant adverse effects to the shoreline environment in which it is to be located; and
- (e) That the public interest suffers no substantial detrimental effect.

The Department of Ecology (Ecology) would be the governing body that approves or rejects the conditional use in the CR environment.

Without approval of this amendment, the siting options for regulatory required underground storage tanks and water quality treatment vaults could be severely constrained. The City could be required to exercise eminent domain on private property and/or the City would be forced to construct facilities in non-optimal sites with significant monetary or public impacts. On the other hand, approving this amendment affords the City the flexibility to site regulatory required wastewater and stormwater facilities in the CR environment with minimal environmental and public impact.

Recommendation

The current SMP prohibits utility service uses, such as stormwater and/or combined sewage treatment or storage structures, from being constructed in the CR environment. This limits the City's ability to construct regulatory-driven water quality facilities in the most optimal and publicly acceptable locations. The proposed amendment to the SMP would conditionally allow these facilities to be constructed in the CR environment, provided that they reasonably require a shoreline location to operate. The environmental impact of these facilities on the shoreline environment would be adequately managed, since the Department of Ecology would only grant the conditional use if the proposed facility meets the Conditional Use provisions in the WAC 173-27-160. Accordingly, DPD recommends approval of the proposed Code amendments.